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C O N F I D E N T I A L SECTION 01 OF 02 GUANGZHOU 000444

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SUBJECT: PRD Labor NGOs Prepare Comments for Draft Social Security Law

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¶1. (U) Classified by Consul General Brian Goldbeck for reason 1.4 (d).

¶2. (C) SUMMARY AND COMMENT: Labor nongovernmental organizations (NGOs) in the Pearl River Delta (PRD) are in the process of preparing suggested revisions to a draft Social Security Law. The NGO document, which is not yet finalized, mainly focuses on expanding accountability and transparency and clarifying ambiguities regarding oversight and benefits. The submission of a single document representing the views of many PRD labor NGOs would constitute an uncommonly direct move to influence government policy. END SUMMARY AND COMMENT.

Testing the Mainstream Waters

¶3. (C) South China's labor NGOs are working together to systematically prepare suggested revisions to national-level draft social security legislation, according to Guangzhou-based labor rights activist Zeng Feiyang (protect). The NGOs' 22 pages of changes to the document, which the government posted online to solicit public comments, generally seek to codify specific protections and guarantees for workers and to eliminate differences in treatment between "urban workers" and "rural residents working in cities."

¶4. (C) Comment: Submitting to the government a position paper on behalf of the PRD's most significant -- and unofficial -- labor NGOs would be a risky but potentially productive action. Though authorities would doubtless be disturbed by already-suspect groups "organizing" to coordinate their approach to the new legislation, the document might also be seen as a good-faith effort by NGOs to work within the system to effect change. End comment.

Suggested Revisions

15. (C) The document, which already incorporates comments from Shenzhen-based labor NGOs, is currently under review by NGOs in Guangzhou. Of the revisions proposed by Shenzhen NGOs, the following are most noteworthy:

-- Article 3: the original text says that the social security system should follow a "broad coverage" principle; the NGO revision calls for "complete coverage," and says that one "uniform" social security system should cover all areas, regardless of rural or urban status.

-- Article 4: the original text requires both employers and individuals to pay social security fees; the NGO revision would exempt those earning less than 40 percent of the local area's average income, mandating the government pay instead.

-- Article 6: the original text leaves supervision of social security funds to the government; the NGOs call for the creation of an "independent supervision organization" -- consisting of auditors, academics and members of People's Congresses -- which would publish semiannual audit results.

-- Article 7: whereas the original text charges the Social Security Administration under the State Council to manage the social security funds, the NGO revision would put the Finance Ministry in charge of collecting the funds while the Labor and Social Security Ministry would be responsible for budgeting and allocating the funds.

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-- Article 8: the original text gives trade unions the right to participate in any research or study concerning social security issues; NGOs would give the privilege to "grassroots organizations."

-- Article 14: the original text entitles citizens to monthly pensions until they die, as long as they have "paid enough years of social security fees" and "reached the age of retirement;" the benefit structure proposed by the NGOs would provide 40 percent of average local income to those who have paid more than 30 years, 35 percent for 15-30 years, and 30 percent for those paying less than 15 years or who are too poor to pay.

-- Article 16: the original text has pensions adjusted based on average income increase and inflation; the NGOs contend that increases should be based on national GDP figures.

-- Article 79: the original text levies unspecified fines against employers who fail to pay social security fees; the NGO revision specifies a fine between CNY 50,000 and 300,000 (approximately USD 7,300 and USD 44,000 respectively) plus the possibility of up to three years imprisonment.

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